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Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning.

Rulemaking 20-01-007 (Filed January 16, 2020)

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SIERRA CLUB AND CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE OPENING BRIEF ON TRACK 2A SCOPING DOCUMENT QUESTION A

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TABLE OF CONTENTS

II.	DISC	DISCUSSION				
	A.	There is No Meaningful Process to Evaluate the Need, Impacts, and Alternatives for Investments in Gas Infrastructure				
		1.	The Commission Does Not Require Gas Utilities to Conduct Site-Specific Review for Gas-Only Projects Regardless of their Impact or Cost			
		2.	The General Rate Case Does Not Allow for Meaningful and Accessible Review of Gas Infrastructure Projects or Provide a Sufficient Timeframe to Assess and Deploy Alternatives that Avoid New Capital Investments in the Gas System			
		3.	Local Governments Are Unable to Meaningfully Review Gas Infrastructure Projects Due to the Commission's Preemptive Authority			
	В.	The Commission Must Adopt Rules Requiring Project-Specific Review of Gas Projects to Protect Local Communities, Minimize Stranded Assets, and Enable Informed Long-Term Gas System Planning				
		1.	Section 1001's Broad Exemption from Site-Specific Review for Gas Infrastructure Projects Yields Absurd Results that Perpetuate Environmental Injustice and Allow Extremely Costly Projects to Escape Scrutiny			
		2.	A Gas-Side General Order is Necessary to Comply with CEQA 12			
		3.	Project-Specific Review is Necessary Now for Long-Term Gas System Planning			
	C.	The Commission Should Develop the Record in this Proceeding to Adopt a Gas Equivalent to G.O. 131-D That Includes a Mechanism to Assess the Purpose and Need for Gas Infrastructure Investments				
		1.	The Commission Has Broad Authority to Adopt New Processes to Determine if a Project is Necessary, Just and Reasonable, and Requires Environmental Review			
		2.	A Gas-Side General Order Should Require an Assessment of Project Need and Alternatives for Gas Infrastructure Projects of Certain Types and Above Certain Thresholds			
		3.	General Order Criteria for Determining Whether a Project Requires Environmental Review			
III.	CON	ICLUS	ION			

TABLE OF AUTHORITIES

Page(s)				
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Cal. Water & Telephone Co. v. Los Angeles Cnty. (1967) 253 Cal. App. 2d 167				
California Bldg. Indus. Ass'n v. Bay Area Air Quality Mgmt. Dist. (2015) 62 Cal.4th 36911				
Env't Def. Fund v. FERC, 2 F.4th 953, 973 (D.C. Cir. 2021)				
Greyhound Lines, Inc. v. Pub. Util. Comm'n (1968) 68 Cal. 2d 406				
Laurel Heights Improvement Ass'n v. Regents of Univ. of Cali. (1988) 47 Cal. 3d 37621				
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SDG&E v. City of Carlsbad (1998) 64 Cal. App. 4th 7857				
SoCalGas v. City of Vernon (1995) 41 Cal. App. 4th 209				
Wise v. Pac. Gas & Elec. Co. (1999) 77 Cal. App. 4th 287				
California Statutes and Regulations				
Cal. Pub. Util. Code § 451				
Cal. Pub. Util. Code § 454				
Cal. Pub. Util. Code § 701				
Cal. Pub. Util. Code § 1001				
Cal. Pub. Util. Code § 1002				
Cal. Pub. Util. Code § 1803				
Cal. Pub. Util. Comm'n Decisions				
D.94-06-014, Re Rules, Procedures and Practices Applicable to Transmission Lines Not Exceeding 200 Kilovolts,				
55 CPUC 2d 87, 1994 WL 388996 (June 8, 1994)7, 10, 11				
D.10-06-048, Decision on Pacific Gas and Elec. Co. Req. to Implement a Program to Improve Elec. Distribution Sys. Reliability (June 25, 2010)21				

to Amend its CPCN for the Aliso Canyon Gas Storage Facility (Nov. 22, 2013)	
D.15-05-040, Decision Dismissing Appl. Without Prejudice, A.13-08-023 (May 26, 2017)	19
D.16-06-054, Decision Addressing the GRCs of Sempra Utils. and the Proposed Settlements (July 1, 2016)	12
D.16-07-015, Decision Denying Appl. (July 18, 2016)	19
D.18-06-028, Decision Den. Sempra Utils.' Proposed CPCN for the Proposed Gas Pipeline 3602, Reclassification of Gas Pipeline 1600 from Transmission to Distribution Serv., and Redefinition of the Existing CPUC Reliability Criterion (June 26, 2018)	13, 14, 19, 20
D.20-02-024, Decision Approving Limited Modifications to D.18-06-028 (Feb. 12, 2020)	14
Other	
Cal. Const. art. XII § 6	18
Cal. Const. art. XII § 8	10
General Order 131-C	7
General Order 131-D	passim
Or. Pub. Util. Comm'n. Order No. 07-002	5, 22, 23, 24
Or. Pub. Util. Comm'n. Order No. 07-047	22
Or. Pub. Util. Comm'n. Order No. 08-339	22
Or. Pub. Util. Comm'n. Order No. 12-013	22
Or. Pub. Util. Comm'n. Order No. 12-437	23
Or. Pub. Util. Comm'n. Order No. 21-127	24
Or. Pub. Util. Comm'n. Order No. 89-507	22
Wash. Admin Code § 480-90-238 (2019)	5, 23

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning.

Rulemaking 20-01-007 (Filed January 16, 2020)

SIERRA CLUB AND CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE OPENING BRIEF ON TRACK 2A SCOPING DOCUMENT QUESTION A

Pursuant to California Public Utilities Commission ("Commission") Rule of Practice and Procedure 13.12 and the February 4, 2022 *Email Ruling Setting Briefing Dates for Track 2a, Scoping Question a* ("Scoping Memo") issued by Administrative Law Judge ("ALJ") Sasha Goldberg, Sierra Club and the California Environmental Justice Alliance ("CEJA") respectfully file this Opening Brief.

I. INTRODUCTION AND SUMMARY

Long-term gas system planning cannot occur absent a meaningful process to review new proposed gas system investments and to identify alternatives such as targeted electrification that further California's equity and climate objectives. Yet the Commission currently has no such process. Public Utilities Code Section 1001 ("Section 1001") exempts new gas infrastructure projects in a gas utility's service territory from the requirement to obtain a Certification of Public Convenience and Necessity ("CPCN") and its corresponding evaluation of project need and environmental and community impacts. As the Scoping Memo notes, while the Commission has narrowed Section 1001's broad exemption from site-specific approvals for categories of electric infrastructure projects through General Order ("G.O.") 131-D, 1 no analogous order exists for gas projects. Other Commission review processes, such as the General Rate Case ("GRC"), are wholly inadequate as a long-term planning mechanism because to the extent project-specific review even occurs, it is cursory and looks at potential new investments on far too short a timeframe to allow for alternatives to be identified and executed. As a result of the shortcomings of Commission review requirements for new gas infrastructure investments, projects such as the Ventura Compressor Station expansion and the \$677 million Line 1600 replacement project have

¹ G.O. 131-D, Planning and construction of facilities for the generation of elec. and certain elec. transmission facilities (Sept. 10, 1995) ("G.O. 131-D"), https://docs.cpuc.ca.gov/PUBLISHED/Graphics/589.PDF.

avoided the project-specific review necessary to ensure that local communities are protected, informed, and involved in major investment decisions, and that costly stranded assets are avoided. For the Commission to effectively plan for a managed transition away from the gas system, it must modernize antiquated rules that have allowed major new investments in the gas system to escape meaningful scrutiny.

To enable long-term gas system planning and address the gaps in the Commission's current review process, the Commission should adopt a G.O. governing review of gas infrastructure projects that reflects the unique concerns posed by continued investment in the gas system. For example, unlike the types of electric projects captured under G.O. 131-D, there is a far greater risk of stranded assets for gas investments given the substantial declines in gas throughput and widespread building electrification necessary for meeting California's climate objectives. In addition, in some cases, such as pipeline replacement along an existing right-ofway, purpose, need, and the potential for environmentally superior alternatives are generally more of a concern than direct environmental impacts. Accordingly, a gas-side G.O. should require review outside of the GRC for projects that are at risk of becoming stranded assets and/or inconsistent with the state's decarbonization requirements. The G.O. review process should focus initially on determining whether proposed projects are necessary in light of climate, air quality, and equity requirements, and whether non-pipeline alternatives are feasible. If projects meet these criteria, the Commission should then evaluate whether environmental assessment requirements apply. The G.O. should also contain provisions for environmental review when requested by local governments and community groups for projects that may not fall within established thresholds but where there is a fair argument the project would result in potentially significant environmental impacts.

With regard to determining purpose and need, the G.O. should include a process through which potential investments anticipated over a 10-year time horizon are reviewed in a single application. This type of long-term planning process is used in states such as Oregon and Washington to assess future gas investments while considering alternatives.² Long-term

² The Public Utility Commission of Oregon ("OPUC") required Integrated Resource Planning ("IRP") for gas utilities in 2007, and the Washington Utilities and Transportation Commission required an IRP for gas utilities in 2012. Order No. 07-002, Docket No. UM 1056 (Or. Pub. Util. Comm'n. Jan. 8, 2007), https://apps.puc.state.or.us/orders/2007ords/07-002.pdf; Wash. Admin Code § 480-90-238 (2019), https://app.leg.wa.gov/WAC/default.aspx?cite=480-90-238&pdf=true.

planning is critical for ensuring that the State is on a pathway to meet its climate, air quality, and equity requirements. Given declining gas demand, the very real risk of stranded assets makes the need and alternatives analysis for gas-side investments distinct from and more broadly applicable than for electric-side investments under G.O. 131-D.

Development of a uniform, transparent, public process to review gas infrastructure investments in light of the State's climate requirements through a gas-side G.O. is critical to the success of the Commission's long-term gas planning efforts. The Commission has broad authority to develop project review requirements based on its authority to regulate gas utilities. It is time for the Commission to exercise that authority. To protect low-income ratepayers and disadvantaged communities from the costs of stranded assets and to ensure that California is on track to meet climate and air quality objectives, the Commission should prioritize development of a gas-side G.O. in this proceeding to provide an urgently needed mechanism that enables long-term gas system planning.

II. DISCUSSION

- A. There is No Meaningful Process to Evaluate the Need, Impacts, and Alternatives for Investments in Gas Infrastructure.
 - 1. The Commission Does Not Require Gas Utilities to Conduct Site-Specific Review for Gas-Only Projects Regardless of their Impact or Cost.

Section 1001 requires utilities to obtain a CPCN before commencing construction on any line, plant, or system. To obtain a CPCN, the project goes through "two concurrent processes: (1) an environmental review pursuant to [California Environmental Quality Act ("CEQA")], and (2) the review of the project need and costs...." Environmental review under a CPCN also includes additional criteria such as the surrounding community's values, the proximity to recreational and park areas, and the historical and aesthetic values of the site. The review of project need and impacts "converge at the conclusion of environmental review when the Energy Division submits the environmental document into the formal proceeding for certification by the Commission," with the Commission then issuing "one decision addressing both the project's

⁴ Cal. Pub. Util. Code § 1002.

³ See, e.g., ALJ's Ruling Giving Notice of Intent to Conduct Prehr'g Conference and Pub. Participation Hr'gs, and Concurrent Env't Review Process, at 2–3, Appl. ("A.") 09-09-020 (Apr. 27, 2010) ("Aliso ALJ Ruling"), https://docs.cpuc.ca.gov/PublishedDocs/EFILE/RULINGS/117022.PDF.

environmental impacts and non-environmental issues."5

While the CPCN process provides for a thorough examination of both the need and potential environmental impacts of projects under Commission jurisdiction, Section 1001 contains a broad exemption for projects within a utility's service territory or within a locality where the utility is already lawfully operating. On the electric side, G.O. 131-D applies to electric system projects such as the construction of electric generation facilities, substations, and transmission lines, that the Commission has identified as requiring further review and are ineligible for Section 1001's broad CPCN exemption. As the Scoping Memo notes, there is no such analogous order for gas infrastructure projects. Accordingly, because most gas infrastructure projects are located within the gas utility's service territory, there is effectively no CPCN requirement for gas-only projects. In the limited cases where a utility has sought a CPCN for a gas project, it is because there has been an electrical component that triggered review under G.O. 131-D, such as in the case of compressor station replacements at Aliso Canyon. In another case, SoCalGas and San Diego Gas & Electric Company ("SDG&E") (collectively, "Sempra Utilities") applied for a CPCN for Line 3602, a proposed new 36" gas transmission line. While not required under Section 1001, a CPCN would provide certainty on cost recovery.

2. The General Rate Case Does Not Allow for Meaningful and Accessible Review of Gas Infrastructure Projects or Provide a Sufficient Timeframe to Assess and Deploy Alternatives that Avoid New Capital Investments in the Gas System.

The GRC is currently the sole means by which the vast majority of gas infrastructure investments are reviewed. For multiple reasons, the GRC is wholly inadequate as a mechanism to review the need, impacts, and alternatives to gas infrastructure projects and to engage and

⁵ Aliso ALJ Ruling at 3.

⁶ Section 1001.

⁷ See generally G.O. 131-D. The Commission adopted G.O. 131-D to revise its previous iteration, G.O. 131-C, to apply a Permit to Construct requirement to electric transmission lines not exceeding 200 kV. These projects previously had not been covered by Section 1001 or the G.O.'s permitting requirements. Incorporating party comments, including comments from the California Energy Commission ("CEC") explaining that the total lack of review on these projects violated CEQA, the Commission adopted the expanded G.O. 131-D. Decision ("D.") 94-06-014, *Re Rules, Procedures and Practices Applicable to Transmission Lines Not Exceeding 200 Kilovolts*, 55 CPUC 2d 87, 1994 WL 388996 (June 8, 1994) ("D.94-06-014").

⁸ See D.13-11-023, Decision Addressing Appl. of Southern Cal. Gas Co. ("SoCalGas") to Amend its CPCN for the Aliso Canyon Gas Storage Facility, at 7, A.09-09-020 (Nov. 22, 2013) (citing D.90-09-059, 37 CPUC 2d 413, 421) ("D.13-11-023"), https://www.socalgas.com/regulatory/documents/a-09-09-020/D1311023.pdf.

inform impacted communities. First, because a GRC encompasses the spectrum of costs of utility operations and proposed capital investments across its entire service territory, review of specific projects is extremely cursory. For example, SoCalGas' treatment of its proposed expansion of the Ventura Compressor Station in its 2019 GRC was three short paragraphs, with no reference to its proximity to sensitive receptors such as an elementary school and Boys & Girls Club or its location in a disadvantaged community. In other cases, the GRC may not even specify the specific pipeline replacement projects under consideration. For example, as noted by the California Energy Commission ("CEC"), "[i]t is not clear how the need to replace aging infrastructure or Aldyl-A pipe is determined in any given rate cycle and whether utilities have comprehensively assessed and prioritized investments over the long term." Even if more detail were provided, GRCs do not assess project impacts, allow for a meaningful consideration of alternatives, meaningfully examine the potential need for a project, or provide the legal requirements and protections of CEQA.

Second, because GRCs only look several years forward in seeking approval of gas infrastructure investments, they do not allow sufficient opportunity to explore and deploy alternatives that avoid new gas system investments such as targeted electrification. For example, when asked about potential alternatives to proposed expenditures on "pressure betterment projects" to meet demand of system expansion in its last GRC, SoCalGas responded that it "does not consider targeted efficiency or end use electrification when performing pressure betterment projects. By the time a pressure betterment project is identified as necessary, the need can be so great that any targeted efficiency program will not help the system."¹¹ As the CEC has correctly observed, "[o]ngoing long-term planning will be needed to address new and changing needs of the gas system, protect customers from unnecessary costs, and support continued provision of

⁹ See SoCalGas Joint Direct Test. of Michael A. Bermel and Beth Musich, at MAB-23-24, A.17-10-008 (Oct. 6, 2017) ("Joint Direct Test. of Bermel & Musich"), https://www.socalgas.com/regulatory/documents/a-17-10-008/SCG-07%20Musich%20and%20Bermel%20Prepared%20Direct%20Testimony.pdf.

¹⁰ CEC, Final 2021 Integrated Energy Pol'y Report, Vol. III: Decarbonizing the State's Gas Sys., at 86 (Feb. 2022) ("Final 2021 IEPR Vol. III"), https://efiling.energy.ca.gov/getdocument.aspx?tn=241961. ¹¹ A.17-10-008, Response to Sierra Club/USC Data Request 004 at Q.8, (Apr. 23, 2018),

https://www.socalgas.com/regulatory/documents/a-17-10-008/SIERRA-CLUB-UCS-SCG-004-FINAL PDF. See also Final 2021 IEPR Vol. III at 86 (in a given rate cycle, "[ilt is also unclear the extent to which utilities consider nonpipeline alternatives when deciding which pipelines to repair or safety investments to make").

safe, reliable, and affordable service in an evolving industry."¹² Given their short time horizon, GRCs are not the appropriate venue to evaluate the need and potential for alternatives to new gas infrastructure investments.

Third, reliance on the GRC as the proceeding to review and approve new capital investments in the gas system is inconsistent with the core requirements of the Commission's Environmental and Social Justice ("ESJ") Action Plan, which requires meaningful notice and opportunities for impacted communities to participate. 13 As noted by the CEC, GRCs involve "legal pleadings and briefs unfamiliar to outside stakeholders" and meaningful participation "is hampered by difficulty accessing information on utility investments due to the sheer size of rate case filings."¹⁴ Often, communities have no actual opportunity to influence the GRC, as the CEC notes, because "rate cases often rely on settlements between parties that are not transparent to those who do not participate in the proceeding." ¹⁵ Moreover, as was the case with the proposed Ventura Compressor Station expansion, SoCalGas only notified the community directly impacted by the project after the Commission approved its GRC. The Commission's ESJ Action Plan requires the Commission to enhance outreach and public participation opportunities for ESJ communities to meaningfully participate in the Commission's decisionmaking process. 16 This means separating out proposed gas infrastructure projects from the GRC to a more focused project-specific review that enables community engagement and sufficient lead-time to implement alternatives.

3. Local Governments Are Unable to Meaningfully Review Gas Infrastructure Projects Due to the Commission's Preemptive Authority.

Because the Commission's plenary authority to regulate utilities preempts local

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¹² Final 2021 IEPR Vol. III at 88 (emphasis added).

¹³ CPUC, ESJ Action Plan, Version 2.0 – Draft version for public comment, at 4 (Oct. 26, 2021) (Goal 5 is to enhance outreach and public participation opportunities for ESJ communities) ("CPUC ESJ Action Plan"), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/draft-cpuc-esj-2010262021c.pdf.

¹⁴ Final 2021 IEPR Vol. III at 87.

¹⁵ *Id.*; *see also id.* at 7 ("participation in gas utility proceedings tends to be limited to a small set of stakeholders — usually ratepayer advocates and a few large, sophisticated customers with long experience participating in adjudicatory-style proceedings. Yet, there is a growing list of stakeholders who have an interest in the future of the gas system, including environmental justice groups, building decarbonization advocates, local governments, and community-based organizations, among others. Their views are vital to long-term decision-making on the gas system and related decarbonization.").

¹⁶ CPUC ESJ Action Plan at 4–5.

governments from asserting authority over utility construction projects, there is no entity other than the Commission that can exert control over these gas infrastructure projects and serve as lead agencies under CEQA. ¹⁷ This means that projects that would normally trigger CEQA but for Commission preemption are not being reviewed. Indeed, California courts have repeatedly affirmed the broad preemptive authority of the Commission. ¹⁸ For example, in *SDG&E v. City of Carlsbad*, the California Court of Appeals found that the Commission's general regulatory authority over utility activities preempted the City of Carlsbad's specific floodplain management regulations pertaining to dredging, which it had attempted to enforce in response to dredging activity at a power plant that ran afoul of the local regulations. ¹⁹ Despite the fact that the Commission has no dredging regulations that would conflict with the local regulation, the court found that "even if such regulatory power has not been expressly exercised, the power still resides in the PUC, not a local entity, due to the essential nature of the maintenance operation." ²⁰

The failure of the Commission to require project-specific review of gas infrastructure projects coupled with its preemption of local governments means that projects are escaping the necessary scrutiny and process to ensure that local communities are protected and project alternatives are fully considered through a process that enables meaningful community engagement. This precise issue—as applied to electrical transmission lines under 200 kV—was the impetus for the Commission's adoption of G.O. 131-D.²¹ In D.94-06-014, the Commission acknowledged that it had previously "encouraged local government involvement" in sub-200-kV transmission line projects "because these activities are not otherwise reviewed," but simultaneously "firmly maintain[ed] that local jurisdictions have no authority to disapprove or unduly interfere with" the projects because they were preempted by Commission authority.²²

¹⁷ Cal. Const. art. XII § 8 ("A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission.").

¹⁸ See Cal. Water & Telephone Co. v. Los Angeles Cnty. (1967) 253 Cal. App. 2d 16 (finding that local water ordinance was constitutionally unenforceable against investor-owned utility because it conflicted with Commission's statewide regulatory authority over utilities); SoCalGas v. City of Vernon (1995) 41 Cal. App. 4th 209, 217 ("[U]nder the Constitution a city may not regulate matters over which the PUC has been granted regulatory power...."); SDG&E v. City of Carlsbad, 64 Cal. App. 4th 785, 803 (1998) (finding local dredging permit requirement unenforceable against utility due to Commission's preemptive authority over utility maintenance activities).

¹⁹ *SDG&E*, 64 Cal. App. 4th at 803.

²⁰ *Id*.

²¹ D.94-06-014.

²² *Id*.

The G.O. revision was thus intended in part to clear up the "regulatory confusion" that resulted from this treatment, as well as to provide an avenue for environmental review for these projects at the Commission.²³ The CEC's position in that proceeding aptly summed up the issue:²⁴

CEC points out that a municipal utility or qualifying facility which builds even a short 115-kV radial line is required to comply with CEQA. However, because of an anachronistic provision in GO 131-C, privately owned utilities can build lines of 200 kV or less through many miles of sensitive resources with no consideration of environmental impacts, project or routing alternatives, or appropriate mitigation. Privately owned utilities may impose these projects on cities and counties without notice or review, using the pre-emptive shield of the PU Code and Commission jurisdiction. CEC argues that, in effect, the provision in GO 131-C exempting projects of 200 kV or less from licensing and environmental review is a significant and legally doubtful loophole in CEQA.

The same "regulatory confusion" and "legally doubtful CEQA loophole" exists now for gas projects due to Section 1001's broad exemption for gas projects in a utility's service territory.

- B. The Commission Must Adopt Rules Requiring Project-Specific Review of Gas Projects to Protect Local Communities, Minimize Stranded Assets, and Enable Informed Long-Term Gas System Planning.
 - 1. Section 1001's Broad Exemption from Site-Specific Review for Gas Infrastructure Projects Yields Absurd Results that Perpetuate Environmental Injustice and Allow Extremely Costly Projects to Escape Scrutiny.

The result of Section 1001's blanket exemption is that gas utilities seeking to commence construction of new or replacement gas-only infrastructure almost never encounter an on-ramp to the environmental review process, because they are not required to obtain a CPCN due to the exemption, and G.O. 131-D does not apply to them. SoCalGas' proposed Ventura Compressor Station expansion, as well as its application for approval of Line 3602 and the subsequent aftermath, are two recent examples of how the disparate application of the Commission's authority to perform comprehensive environmental review has led to absurd results that are highly situational. The examples below demonstrate the need for project-specific review across gas infrastructure projects.

²⁴ *Id*.

²³ *Id*.

a. The Ventura Compressor Station and the Failure of Existing Commission Processes to Protect Disadvantaged Communities.

SoCalGas' proposed expansion of the Ventura Compressor Station is an example of a project that has not been subject to any environmental review due to the Section 1001 CEQA loophole. SoCalGas included cursory information about the project in its 2016 and 2019 GRC filings to obtain Commission authorization to recover project costs, but never applied for a CPCN and commenced with the project in the spring of 2021 having undergone no environmental review.²⁵ The compressor station is located across the street from an elementary school and Boys and Girls Club, and in the middle of a residential area in an ESJ Community.²⁶ The compressor station causes localized air pollution in the neighborhood, which ranks within the 80th to 90th percentile of CalEnviroScreen 4.0's pollution burden data for the state.²⁷

Despite the potentially significant impacts of this project, resolutions from the Ventura City Council and Ventura County Board of Supervisors calling on the Commission to perform environmental review, as well as numerous letters, call-ins, and protests from affected community members, the Commission's response has only been to issue a pause on the project while directing SoCalGas to answer data requests regarding the project and perform its own

9

²⁵ See Joint Direct Test. of Bermel & Musich (SoCalGas testimony from 2019 GRC referencing the project); Ex. SCG-07-CWP, Capital Workpapers to Prepared Direct Test. of Elizabeth A. Musich / Michael Bermel on Behalf of SoCalGas, at 121, A.17-10-008 (Oct. 2017) (workpapers supporting testimony from 2019 GRC), https://www.socalgas.com/regulatory/documents/a-17-10-008/SCG-07-CWP%20BMusich%20&%20MBermel%20-%20Gas%20Transmission.pdf; see also D.16-06-054, Decision Addressing the GRCs of Sempra Utils. and the Proposed Settlements, at 293, A.14-11-003 (July 1, 2016) (2016 GRC Decision approving a joint settlement including expenditures for "maintaining and replacing key components of the compressor-related equipment."), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M164/K606/164606603.pdf; Ex. SCG-07, SoCalGas Direct Test. of Raymond K. Stanford (Gas Engineering), at RKS-66, A.14-11-004 (testimony supporting 2016 GRC filing and providing cursory explanation of the project), https://www.socalgas.com/regulatory/documents/a-14-11-004/SCG-07 R Stanford Testimony.pdf; Ex. SCG-07-CWP, Capital Workpapers to Prepared Direct Test. of Raymond K. Stanford on Behalf of SoCalGas, at 116, A.14-11-004 (Nov. 2014) (workpapers supporting Stanford testimony containing description of the project), https://www.socalgas.com/regulatory/documents/a-14-11-004/workpapers/SCG-07-RStanford%20CWP GTRAN.pdf.

²⁶ The compressor station is located at 1555 N. Olive Street in Ventura. *See* Cal. Office of Env't Health Hazard Assessment, *CalEnviroScreen 4.0 Map* (Oct. 2021), https://oehha.ca.gov/calenviroscreen/maps-data. The CalEnviroScreen 4.0 Map tool indicates that the pollution burden of this area qualifies it as a Disadvantaged Community pursuant to Senate Bill 535, which in turn classifies the area as an ESJ Community pursuant to the Commission's ESJ Action Plan.

²⁷ *See id.*

review.²⁸ As community groups noted in a recent letter to the Commission, these data requests are no replacement for the in-depth environmental review and community engagement required by the CPCN and CEQA processes and consistent with the Commission's obligations under the ESJ Action Plan.²⁹

In contrast, in 2009, SoCalGas decided to replace the gas-fueled compressors at its Aliso Canyon Storage Facility with new electric compressors. Because that project involved construction of a new electrical substation and other electric infrastructure to serve the compressors that fell under G.O. 131-D, the Commission conducted a CPCN modification and full CEQA review.³⁰ As these cases illustrate, the lack of a gas-equivalent G.O. 131-D has resulted in a compressor station in a disadvantaged community and across the street from a school escaping environmental review, and one that happened to include electrical elements requiring a CPCN.

b. Line 1600 and the Failure of Existing Commission Processes to Require Meaningful Review of Costly and Potentially Avoidable Projects.

The saga of Line 1600 illustrates the failures of existing Commission processes to ensure costly gas infrastructure projects are subject to meaningful scrutiny. In A.15-09-013, the Sempra Utilities sought Commission approval to de-rate the 16-inch Line 1600 from transmission to distribution service and construct Line 3602, a new 36-inch transmission pipeline, for an estimated total cost of \$639 million.³¹ In D.18-06-028, the Commission rejected the Sempra

²⁸ Letter from Rachel Peterson, Exec. Dir. of CPUC, to Scott Drury, Chief Exec. Officer of SoCalGas (Aug. 5, 2021), https://www.cpuc.ca.gov/-/media/cpuc-ventura-compressor-station-08052021.pdf; Letter from Rachel Peterson, Exec. Dir. of CPUC, to Scott Drury, Chief Exec. Officer of SoCalGas (Aug. 20, 2021), https://www.cpuc.ca.gov/-/media/cpuc-website/industries-and-topics/documents/executive-director-letter-to-socalgas-re-ventura-compressor-station-august-20-2021.pdf; see generally CPUC Data Requests to SoCalGas Regarding Ventura Compressor Station, https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/natural-gas/ventura-compressor-station/ventura-compressor-station-data-requests.zip.

²⁹ Letter from CFROG, Food & Water Watch, Westside Community Council, Patagonia, CAUSE, Conejo

²⁹ Letter from CFROG, Food & Water Watch, Westside Community Council, Patagonia, CAUSE, Conejor Climate Coalition, Sierra Club Los Padres Chapter, and Earthjustice to President Alice Reynolds and Comm'rs (Feb. 15, 2022) (served on parties to R.20-01-007 on Feb. 15, 2022).

³⁰ See D.13-11-023 at 7.

³¹ D.18-06-028, Decision Den. Sempra Utils.' Proposed CPCN for the Proposed Gas Pipeline 3602, Reclassification of Gas Pipeline 1600 from Transmission to Distribution Serv., and Redefinition of the Existing CPUC Reliability Criterion, at 2–3, A.15-09-013 (June 26, 2018) ("D.18-06-028"), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M217/K013/217013446.pdf.

Utilities' proposal, finding that a new 36-inch transmission pipeline was unneeded "in an era of declining demand and at a time when the state of California is moving away from fossil fuels." With their pipeline proposal denied, the Sempra Utilities moved forward with a plan to replace most of Line 1600's line segments. The replacement plan for Line 1600 was never identified or evaluated as part of A.15-09-013 and would cost approximately \$677 million, more than its original proposal to build a new larger pipeline and de-rate Line 1600. The new \$677 million proposal was approved by the Commission's Safety and Enforcement Division absent any public process and with little explanation or analysis. Yet multiple experts, including those of the Sempra Utilities, had testified that de-rating Line 1600 from 512 to 320 psig, which was part of the Sempra Utilities' initial proposal, "will enhance its safety in the near term, and promote its safety into the future." Moreover, due to declining gas demand, Line 1600 (or an alternative source of transmission capacity) would not be needed until 2023 to meet Commission reliability standards.

Despite it costing more than their original proposal, the Sempra Utilities were able to move forward with the Line 1600 replacement project without filing a new application or any other meaningful public review process. In contrast to the \$677 million to replace Line 1600, derating was estimated to cost a mere "\$15 million or approximately 'two percent' of the cost of the" \$677 million replacement project. The while a proposed decision that deadlocked on a 2-2 vote would have required further review and consideration of de-rating Line 1600, the Commission ultimately approved an alternative decision that allowed the Sempra Utilities' \$677 million replacement plan to proceed. If the Commission is in fact concerned with stranded asset risks and containing gas system costs, new processes are needed to ensure gas infrastructure projects costing hundreds of millions of dollars are more thoroughly scrutinized and subject to public review.

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³² *Id.* at 123, Conclusion of Law No. 3.

³³ Proposed Decision Approving Modifications to Decision 18-06-028 (Rev. 2), at 44, A.15-09-013 (Sept. 12, 2019) ("PD Approving Modifications to D.18-06-028"), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M324/K468/324468864.PDF.

³⁴ D. 18-06-028 at 20.

³⁵ PD Approving Modifications to D.18-06-028 at 44–45.

³⁶ *Id.* at 3; D.20-02-024, *Decision Approving Limited Modifications to D.18-06-028*, A.15-09-013 (Feb. 12, 2020), https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M327/K135/327135096.PDF.

2. A Gas-Side General Order is Necessary to Comply with CEQA

"CEQA was enacted to advance four related purposes: to (1) inform the government and public about a proposed activity's potential environmental impacts; (2) identify ways to reduce, or avoid, environmental damage; (3) prevent environmental damage by requiring project changes via alternatives or mitigation measures when feasible; and (4) disclose to the public the rationale for governmental approval of a project that may significantly impact the environment."³⁷ If a project is discretionary and does not qualify for a CEQA exemption, the agency must conduct environmental review.³⁸ A project is ministerial, and therefore does not trigger CEQA, "if the agency has no discretionary authority to deny or shape the project" or "the agency lacks authority to address environmental impacts."³⁹ Conversely, "if the agency is empowered to disapprove or condition approval of a project based on environmental concerns that might be uncovered by CEQA review, the project is discretionary."⁴⁰

The current absence of any criteria for CEQA review of gas infrastructure projects is inconsistent with the Commission's CEQA obligations. Using the Ventura Compressor Station example, the Commission is the entity with the authority to approve, condition, or modify the project. Localities directly impacted by the project are preempted from doing so. This is the same "legally doubtful CEQA loophole" that prompted G.O. 131-D and remains present for gasside projects. 41

Moreover, given the urgency of rapidly transitioning away from fossil fuels, pipeline replacement projects that could be avoided through targeted electrification and other non-pipeline alternatives also pose environmental concerns. These projects enable continued gas system dependency and stand in the way of alternative measures that reduce climate pollution and reliance on the gas system. In failing to provide a process to meaningfully evaluate these investments and their alternatives, the Commission is failing to meet its obligations under CEQA.

³⁷ California Bldg. Indus. Ass'n v. Bay Area Air Quality Mgmt. Dist. (2015) 62 Cal.4th 369, 382.

³⁸ Protecting Our Water v. County of Stanislaus (2020) 10 Cal. 5th 479, 489.

³⁹ *Id.* at 494.

⁴⁰ *Id*.

⁴¹ See supra Section II(A)(3) (discussing the historical circumstances related to the adoption of G.O. 131-D).

3. Project-Specific Review is Necessary Now for Long-Term Gas System Planning.

Project specific review is necessary now given declining gas demand and the stranded asset consequences of continued gas system investments. It is not a question of whether California will reduce gas usage and decarbonize its buildings and other end uses, it is a question of when and how. "The simple fact is that meeting California's GHG reduction goals, a statewide priority and absolute necessity to combat climate change, inevitably means a substantial decline in gas throughput in the state."42 Declining gas demand changes the calculus when evaluating gas investments. As the CEC points out, "with declining gas demand, the paradigm that assumes gas infrastructure assets have a useful life of 60 or more years may no longer apply."⁴³ Planning and management of projects is necessary to ensure an equitable transition away from the gas system. As described in Gridworks' California Gas System in Transition:

Without active planning and management, the combination of reduced gas usage, increased costs, and a declining customer base will result in exponentially higher gas rates, along with a disproportionate burden on customers unable to afford to implement electrified technologies.... The reactive path is most likely to hurt those least likely to afford the transition: low-income residents. The smart, managed path must consider equity and protect customers from unaffordable gas bills by enabling them to electrify. 44

Project-specific review is particularly critical now given the likelihood of stranded assets and the declining gas demand.⁴⁵ As the CEC describes:

Reductions in gas throughput also raise the potential for stranded assets, as well as utility workforce issues and concerns about the long-term role of gas utilities. To avoid creating large amounts of stranded investments, utilities and decision-makers must identify ways to minimize and prioritize investments in the gas system, as well as reduce costs for operating and maintaining it.⁴⁶

This prioritization and minimization of investments cannot occur without additional review of

⁴² Gridworks, California's Gas System in Transition: Equitable, Affordable, Decarbonized and Smaller, at 1 (2019) ("Gridworks Transition Report"), https://gridworks.org/wpcontent/uploads/2019/09/GW Calif-Gas-System-report-1.pdf.

⁴³ Final 2021 IEPR Vol. III at 6-7.

⁴⁴ Gridworks Transition Report at 2 (emphasis added).

⁴⁵ Final 2021 IEPR Vol. III at ii (describing "the need for a comprehensive, long-term gas-planning" process to achieve deep decarbonization of the gas system and ensure a safe, reliable, and equitable transition from fossil gas.").

⁴⁶ *Id.* at 5.

specific projects, and no mechanism to complete this review exists on the gas side. As noted in Gridworks' *California's Gas System in Transition*, "[t]he CPUC considers gas planning issues episodically in rate cases and rulemakings as particular questions arise, but there is nothing resembling an IRP for the gas system."⁴⁷

When projects are analyzed in the general rate case and other rate cases, the analysis is focused on the short term and wholly insufficient. As the CEC's Integrated Energy Policy Report ("IEPR") describes:

Current gas utility infrastructure investment decisions are made on a case-by-case basis in the short-term context of rate cases and other regulatory proceedings. Even when gas utilities must obtain formal approval to add or retire major infrastructure assets, those actions are not comprehensively assessed from a long-term climate perspective. This approach to investment decisions does not provide the rigorous or robust planning needed to address the state's long-term use of the gas system and associated decarbonization.⁴⁸

A routinized and robust review process is needed now to ensure that gas projects receive the scrutiny necessary to evaluate the likelihood of stranded assets and consistency with decarbonization requirements.

C. The Commission Should Develop the Record in this Proceeding to Adopt a Gas Equivalent to G.O. 131-D That Includes a Mechanism to Assess the Purpose and Need for Gas Infrastructure Investments.

The Commission has broad authority to adopt a G.O. that requires the review of gas projects for need and assesses whether the projects meet environmental requirements. G.O. 131-D serves several general purposes: (1) it requires uniform reporting related to the proposed projects; (2) it requires a review of whether a project is necessary; (3) it requires review of whether a project should be granted a certificate of public convenience and necessity; and (4) it requires an environmental review process to comply with CEQA requirements. The Commission should include each of these elements in a G.O. to ensure gas projects are reviewed in a transparent, public process.

1. The Commission Has Broad Authority to Adopt New Processes to Determine if a Project is Necessary, Just and Reasonable, and Requires Environmental Review.

The California Constitution and statutory authorities give the Commission broad

⁴⁷ Gridworks Transition Report at 16.

⁴⁸ Final 2021 IEPR Vol. III at 7.

authority to regulate the public utilities of the State.⁴⁹ This authority includes the ability to act in a supervisory and regulatory manner to do all things "which are necessary and convenient in the exercise of such power and jurisdiction."⁵⁰ This supervisory and regulatory power has been construed liberally to allow the Commission broad power to regulate utilities within the Commission's jurisdiction.⁵¹ Along this line, courts have accorded the Commission significant deference, finding that a Commission's statutory interpretation "should not be disturbed unless it fails to bear a reasonable relation to statutory purposes and language."⁵²

A central duty of the Commission is ensuring that rates are just and reasonable. Section 451 of the Public Utilities Code provides that utilities' service shall be "adequate, efficient, just, and reasonable...as...necessary to promote the safety [and] health...of its patrons, employees, and the public," and that all charges by a public utility for services rendered shall be just and reasonable.⁵³ Notably, the Public Utilities Code grants the Commission wide authority to prescribe the procedures related to approving proposals into rates providing that: "[t]he Commission may adopt rules it considers reasonable and proper for each class of public utility providing for the nature of the showing required to be made in support of proposed rate changes, the form and manner of the presentation of the showing, with or without a hearing, and the procedure to be followed in the consideration thereof."54 This same section highlights the need for the Commission to include a public process and permit customers and "organizations formed to represent their interests, to testify at any hearing on the proposed rate change."55 The Code further provides the Legislature's intent to encourage "the effective and efficient participation of all groups that have a stake in the public utility regulation process."⁵⁶ Accordingly, the Commission is well within its authority to adopt new processes for gas system investments that enable a meaningful examination of their need, alternatives, and potential impacts through a publicly accessible process.

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⁴⁹ See, e.g., Cal. Const. art. XII § 6 ("The commission may fix rates, establish rules, . . . and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction.").

⁵⁰ Cal. Pub. Util. Code § 701.

⁵¹ See, e.g., Wise v. Pac. Gas & Elec. Co. (1999) 77 Cal. App. 4th 287, 293 ("...[T]he PUC [has] broad regulatory power over public utilities.").

⁵² Greyhound Lines, Inc. v. Pub. Util. Comm'n (1968) 68 Cal. 2d 406, 407.

⁵³ Cal. Pub. Util. Code § 451.

⁵⁴ *Id.* § 454(c).

⁵⁵ *Id.* § 454(d).

⁵⁶ *Id.* § 1803.1(b).

2. A Gas-Side General Order Should Require an Assessment of Project Need and Alternatives for Gas Infrastructure Projects of Certain Types and Above Certain Thresholds.

The stranded asset consequences of new capital investments in the gas system calls for a new process to determine where a project is necessary. The Commission has broad authority to deny a proposed gas pipeline or transmission project based on insufficient need. ⁵⁷ A need analysis of new proposed gas infrastructure projects is critical given climate goals and "in an era of declining demand." ⁵⁸ The Public Utilities Code requires that "a principal goal of...natural gas utilities' resource planning and investment shall be to minimize the cost to society of the reliable energy services that are provided by natural gas and electricity, and to improve the environment and to encourage the diversity of energy sources through improvements in energy efficiency, the development of renewable energy resources." ⁵⁹ Not only does this section reference the need for gas utility resource planning—it also highlights the need to examine that planning in light of the state's larger climate and air quality goals and requirements.

Requiring a need determination based on long-term climate goals would be similar to the types of determinations that the Commission makes on the electrical side. Furthermore, requiring a need determination before an environmental assessment is also consistent with National Environmental Policy Act ("NEPA") precedent. The D.C. Court of Appeals recently struck down a FERC certificate of approval for a proposed gas pipeline where FERC did not fully examine need, finding that "the Commission failed to adequately balance public benefits and adverse impacts...[which] is a serious problem in a case in which there is no new load demand."⁶⁰

Sierra Club and CEJA propose a framework for a general order by which this assessment could occur to address both a project's purpose, need, and potential for alternatives, as well as

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⁵⁷ See, e.g., D.15-05-040, Decision Dismissing Appl. Without Prejudice, A.13-08-023 (May 26, 2017); D.16-07-015, Decision Denying Appl., A.13-12-013 (July 18, 2016); D.18-06-028.

⁵⁸ D.18-06-028 at 39. The Commission has previously evaluated need before evaluating project impacts under CEQA. *Id.* at 11. Because continued need for new gas projects and alternative solutions is of primary concern to enable the managed transition from the gas system, a need analysis could occur prior to an environmental impact evaluation where applicable.

⁵⁹ Cal. Pub. Util. Code § 701.1 (emphasis added).

⁶⁰ Env't Def. Fund v. FERC, 2 F.4th 953, 973 (D.C. Cir. 2021). FERC also recently reopened review of its policy on how it reviews interstate natural gas pipeline proposals. See FERC, FERC Revisits Review of Policy Statement on Interstate Natural Gas Pipeline Proposals (Feb. 18, 2021), https://www.ferc.gov/news-events/news/ferc-revisits-review-policy-statement-interstate-natural-gas-

https://www.ferc.gov/news-events/news/ferc-revisits-review-policy-statement-interstate-natural-gas-pipeline-proposals.

potential environmental impacts. While the Commission will likely need additional process to further develop this framework, we urge the Commission to prioritize this issue given the urgency of ensuring equity, air quality, and climate are meaningfully considered in gas projects moving forward.

a. Elements of a Need Determination

To evaluate whether a project is needed in long-term, the Commission should set forth that it will analyze, at a minimum: 1) declining gas demand; 2) California's climate requirements; and 3) whether other feasible alternatives exist. For example, as the Commission previously described in its evaluation of a gas line: "fine tuning considerations [for determining the need of a new gas line] include how SB 350 energy efficiency savings enter into the equation, gas-fired generation demand versus import capability, long-term impact of California's decarbonization laws, and even impact of local laws." The only way to effectively consider targeted electrification is to evaluate long-term needs and potential alternatives far in advance of projects. Using this information, the Commission can and should only approve projects as necessary that are "consistent with California climate objectives." To design this process for evaluating need, the Commission can rely on the elements of its electrical-side determinations and other states' long-term gas evaluation processes.

b. Examples of Need Determinations for Utility Projects.

Although the costs of many projects are reviewed in the GRC, the Commission has dedicated proceedings that review the types of projects substantively before their costs are presented in the GRC. In addition, Oregon and Washington also can provide examples of processes that review gas system investment on a longer-time frame though gas-side long-term planning process.

i. Commission Processes.

Past Commission precedent established a two-step process to determine whether a utility

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⁶¹ This data should at a minimum include the information required by Rule 3.1 of the Commission's Rules of Practice and Procedure as well as information related to the long-term forecasted need and use of a project, such as the "Ten-year forecasted (maximum daily and annual daily average daily) volumes in the area to be served by the proposed Line; including information of the quality of gas and broken down by customer type (e.g. core, non-core commercial and industrial, and noncore electric generation). D.18-06-028 at 15 (citing Rule 3.1 of the Commission's Rules of Practice and Procedure).

⁶² D.18-06-028 at 17.

⁶³ *Id.* at 33.

cost is needed, just, and reasonable as required under Section 451 of the Public Utilities Code. First, the Commission determines whether the resource or program itself is necessary and reasonable in scope; and second, the Commission examines whether the costs for the resource or program are themselves reasonable. As the Commission summarized:

We also have the obligation to ensure that rates are reasonable. Whether characterized as a policy or a basic ratemaking principle, for a capital program or project such as Cornerstone, *there must be a compelling demonstration of need*. A broad policy such as the desirability of maintaining or improving electric distribution reliability can only be implemented at the program or project level if there is demonstrated need for the particular programs or projects.⁶⁴

The Commission's review of whether a project is necessary has occurred outside of a GRC in a separate application, like it did for Pacific Gas & Electric Company's request for Cornerstone, or it has occurred as part of a larger long-term plan. In the IRP proceeding and the previous Long Term Procurement Planning proceedings, the Commission has reviewed the utilities' long-term plans and scrutinized those plans to decide what type of and how many resources are needed for the system. This forward-focused review answers the question of whether a project is necessary before examining whether the costs are just and reasonable in a subsequent rate case, because an unnecessary project is not just or reasonable. Approval of an investor-owned utilities long-term procurement plan is also required to include:

The upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to execution of the transaction. This shall include an expedited approval process for the commission's review of proposed contracts and subsequent approval or rejection thereof. The electrical corporation shall propose alternative procurement choices in the event a contract is rejected.⁶⁶

These upfront standards are critical for ensuring that procured resources meet projected needs. Notably, even with the long-term plan, the Commission still has a requirement to conduct an expedited approval process that is guided by its upfront standards and criteria. None of this

⁶⁴ D.10-06-048, *Decision on Pacific Gas and Elec. Co. Req. to Implement a Program to Improve Elec. Distribution Sys. Reliability*, at 16 (June 25, 2010) (emphasis added), https://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/119833.PDF.

⁶⁵ Order Instituting Rulemaking to Continue Elec. IRP and Related Procurement Processes, Rulemaking 20-05-003. In addition to providing approval or denial of the projects within the plans, the Commission also includes requirements such as Tier 3 Advice Letters to ensure transparency and a process related to the approval of certain projects.

⁶⁶ Cal. Pub. Util. Code § 454.5(b)(7).

process exists on the gas side. There are no upfront standards or criteria and there is no corresponding expedited approval process for contracts. Section 701 refers to a resource planning process for the gas system.⁶⁷ It is time for the Commission to act on that language.

The Commission should follow the lead of what it has done in the electrical planning context and review gas projects in a dedicated proceeding or plan to determine whether those projects are needed, just, and reasonable. At the very least, the Commission should ensure that gas projects are analyzed in a separate application like the Cornerstone project to determine if the projects are necessary.

Long-Term Gas Planning in Oregon and Washington. ii.

The Commission could model a requirement for considering need and eventually a longterm gas planning application on several elements of Oregon's long-term gas planning requirements. Oregon's IRP process applies to both gas and electric utilities. The OPUC has required energy utilities to develop and file IRPs since 1989, when the OPUC adopted "least-cost planning" as its preferred approach to utility resource planning. ⁶⁸ In 2007, OPUC replaced its 1989 guidelines with its updated IRP Guidelines, a set of thirteen guidelines detailing both substantive and procedural requirements for gas and electric IRPs. ⁶⁹

One of the substantive requirements for an Oregon IRP is that the "planning horizon for analyzing resource choices should be at least 20 years and account for end effects. Utilities should [also] consider all costs with a reasonable likelihood of being included in rates over the

⁶⁷ *Id.* § 701.

⁶⁸ OPUC, Internal Operating Guidelines, App. A at 27–28,

https://www.oregon.gov/puc/forms/Forms%20and%20Reports/Internal-Operating-Guidelines.pdf; see Order 89-507, Establishing And Outlining The Objectives And Concluding The Investigation Into Least Cost Planning (OPUC Apr. 20, 1989) (adopting least-cost planning as the OPUC's preferred approach to utility resource planning).

⁶⁹ Order No. 07-002, Disposition: Guidelines Adopted; Rulemaking and Investigation Opened (OPUC Jan. 8, 2007), https://apps.puc.state.or.us/orders/2007ords/07-002.pdf; Order No. 07-047, Disposition: App. to Order No. 07-002 Corrected (Feb. 9, 2007) (errata of Order No. 07-002 appendix that contained IRP Guidelines) ("OPUC Order No. 07-002"), https://apps.puc.state.or.us/orders/2007ords/07-047.pdf. The 2007 IRP Guidelines were also updated in 2008 and 2012. Order No. 08-339, Disposition: Guideline 8 Adopted (Jun. 30, 2008) (adopting a "refined" guideline 8 regarding analyses of regulatory compliance costs expected for CO2, nitrogen oxides, sulfur oxides, and mercury emissions), https://apps.puc.state.or.us/orders/2008ords/08-339.pdf; Order No. 12-013, Disposition: Guidelines Adopted: Utilities Ordered to Make Revised Tariff Filings (Jan. 19, 2012) (adopting an additional IRP guideline requiring electric utilities to evaluate various flexible capacity issues related to electric vehicle adoption), https://apps.puc.state.or.us/orders/2012ords/12-013.pdf.

long term, which extends beyond the planning horizon and the life of the resource."⁷⁰ The plan must also analyze current and estimated future costs for all long-lived resources, including gas storage facilities and pipelines, as well as all short-lived resources, including gas supply.⁷¹ Analyzing these types of anticipated costs is critical now for California given the decreasing gas demand and the likelihood of stranded assets.

OPUC has further found that the need for IRP review should apply to "all major pipeline investments"; that classifying pipelines or power lines as "distribution equipment" did not eliminate this requirement; and that "the argument that 'reliability is different' [did] not pass muster" for eliminating the requirement to analyze projects.⁷² When ultimately determining whether projects should be approved into the rate base, OPUC "give[s] considerable weight to utility actions which are consistent with acknowledged IRPs," and "require[s] explanations for actions that are inconsistent with an IRP."⁷³ This is consistent with the type of review the Commission has conducted in the electrical context, and it is needed here.

The Commission can also borrow from Washington's gas IRP process, which is designed to comply with Washington law that requires gas utilities to describe the "mix of natural gas supply and conservation designated to meet current and future needs at the lowest reasonable cost to the utility and its ratepayers." Utilities are required, to consider at a minimum "demand-side resource uncertainties," "the risks imposed on ratepayers," and "the cost of risks associated with environmental effects including emissions of carbon dioxide," among other factors. The sare updated every two years, and the Washington Utilities and Transportation Commission is required to consider IRPs in rate proceedings.

c. Thresholds for Need Determination.

The threshold for a Commission's need determination before those costs are included in a GRC should be set low enough to ensure that projects that have a risk of becoming stranded assets or that are inconsistent with California's decarbonization requirements are evaluated. The

⁷⁰ OPUC Order No. 07-002, App. A at 2.

 $^{^{\}prime\prime}$ Id.

⁷² OPUC Order No. 12-437, *Disposition: Application for General Rate Revision Approved as Revised; Further Proceedings Ordered; Preliminary Order Clarified*, at 17, n. 44 (Nov. 16, 2012), https://apps.puc.state.or.us/orders/2012ords/12-437.pdf.

⁷³ *Id.* at 17–18, n. 44.

⁷⁴ Wash. Admin Code § 480-90-238(2)(a).

⁷⁵ *Id.* at 480-90-238(2)(b).

⁷⁶ *Id.* at 480-90-238(4).

threshold should also not allow for projects to be artificially separated to circumvent requirements.⁷⁷

Oregon has a low threshold for the types of projects and resources it requires utilities to evaluate in their long-term planning process. Oregon's relevant G.O. requires that utilities broadly include many types of projects in their plans, stating that: "All known resources for meeting the utility's load should be considered, including ... gas purchases, transportation, and storage – and demand-side options which focus on conservation and demand response." ⁷⁸

OPUC's order further specifies that: "At a minimum, the plan must include ... [f]or natural gas utilities, a determination of the peaking, swing and base-load gas supply and associated transportation and storage expected for each year of the plan, given the existing resources; and identification of gas supplies (peak, swing and base-load), transportation and storage needed to bridge the gap between expected loads and resources" and that "[e]ach utility should ensure that a conservation potential study is conducted periodically for its entire service territory...."

OPUC's analyses have extended to both transmission and distribution projects. For example, in a recent order, OPUC did not approve some of Cascade Natural Gas

Corporation's ("Cascade") proposed distribution projects because it failed to demonstrate a need, and it ordered Cascade to provide additional information on the need for the distribution projects and potential alternatives. Notably, the 2018 Cascade IRP included analysis and discussion of "major" distribution projects that cost around \$200,000,81 showing that the threshold for consideration in the Oregon IRP process is low.

Many types and sizes of projects and resources should be reviewed for need because they are likely to be inconsistent with decarbonization requirements and the declining gas demand. Setting a concrete threshold at this stage is problematic because there are projects that may be

⁸⁰ Order No. 21-127, App. A at 21–22 (OPUC Apr. 28, 2021), https://apps.puc.state.or.us/orders/2021ords/21-127.pdf.

⁷⁷ See, e.g., Laurel Heights Improvement Ass'n v. Regents of Univ. of Cali., (1988) 47 Cal. 3d 376 (phased projects must include future phases within the project even if the details of future phases is not known).
⁷⁸ Or. Pub. Util. Comm'n. Order No. 07-002, App. A at 1.

⁷⁹ *Id.* at App. A at 4, 6.

⁸¹ In a 2018 IRP, Cascade included descriptions and costs for three "major" distribution system enhancements, costing \$191,066, \$204,454, and \$1,930,648. Cascade, *Cascade's 2018 IRP*, at 8-10 (Feb. 6, 2018).

 $[\]frac{https://apps.puc.state.or.us/edockets/edocs.asp?FileType=HAA\&FileName=haa164745.pdf\&DocketID=2}{1258\&numSequence=1}.$

considered "small" in comparison to other projects, but these "small" projects are not needed in the long-term. Rather than set an artificial line, the Commission could require that gas utilities file a general plan for approval of all new capital projects including all new lines or investments along with all projects that require a replacement or extension of a current facility or line. This review could occur in an annual application where the utility could include projects that it is intending to begin within the next ten years. A longer-term projection like this is critical for allowing other non-pipeline alternatives to be considered.

3. General Order Criteria for Determining Whether a Project Requires Environmental Review.

If a project is determined to be needed in the type of evaluation described above, the G.O. should set forth criteria for determining whether the project requires additional environmental review. While additional record development is necessary to establish specific thresholds, the following project types should be included in a G.O. and subject to CEQA review.

- <u>Compressor stations</u>: New compressor stations, expansions, or replacements. As
 demonstrated by the proposed Ventura Compressor station expansion, these types of
 projects can have potentially significant environmental, public health, and safety
 impacts.
- <u>Gas transmission lines</u>: All new lines and significant replacements, particularly those along new rights-of-way. For new proposed transmission lines, this would codify existing practice as a CPCN is typically sought for those projects.
- <u>Gas distribution lines</u>: New lines or significant replacements, particularly those along new rights-of-way, that are above a certain threshold.
- Hydrogen lines: The Commission should use the G.O. to clarify that new lines designed to deliver hydrogen require a CPCN. These projects pose unique safety risks and can facilitate air pollution from end-uses that combust hydrogen. As SoCalGas recently filed an Application for Authority to Establish a Memorandum Account for the Angeles Link Project, which would "include one or more trunk transmission pipelines that would run from green hydrogen sources into delivery point(s) in the Los Angeles Basin." Given these types of projects are currently being contemplated, the Commission should

⁸² A.22-02-__ at 1 (Feb. 17. 2022), https://www.socalgas.com/sites/default/files/A22-02-SOCALGAS-Angeles_Link_Memorandum_Account_Application.pdf.

establish review processes now.

- Gas storage facilities: Governor Newsom and local governments have called for the
 closure of the Aliso Canyon facility, with other storage facilities facing similar calls for
 immediate closure given their risk to public health and safety. Investments intended to
 prolong their operational life and perpetuate these risks rather than help facilitate their
 closure must be carefully scrutinized.
- Review where necessary to ensure public health, safety and environmental justice:
 Regardless of cost and size standards, the Commission should conduct environmental
 review when requested by a local government or by an impacted community. Because
 local governments are limited in their ability to condition utility projects, the
 Commission must be responsive to their concerns by ensuring that all potentially
 significant impacts of a project of community concern have been analyzed and mitigated
 to the extent feasible.

III. CONCLUSION

To enable long-term gas system planning and address the gaps in the Commission's current review process, the Commission should adopt a G.O. governing review of gas infrastructure projects that reflects the unique concerns posed by continued investment in the gas system. A gas-side G.O. should require review outside of the GRC for projects that are at risk of becoming stranded assets and/or inconsistent with the State's decarbonization requirements. The G.O. review process should focus initially on determining whether proposed projects are necessary in light of climate, air quality, and equity requirements, and whether non-pipeline alternatives are feasible. If projects meet these criteria, the Commission should then evaluate whether environmental assessment requirements apply. The G.O. should also contain provisions for environmental review when requested by local governments and community groups for projects that may not fall within established thresholds.

Dated: February 28, 2022. Respectfully submitted,

____/s/____

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